

Appl. No. 10/581,094
Response dated: July 12, 2010
Reply to OA of: June 15, 2010

REMARKS

I. Claim Amendments

By the foregoing amendments to the claims, claims 1-4, 7, 9, 11, 16 and 17 have been amended, and claims 5 and 6 have been canceled.

The claims have been amended to more precisely define the invention. The amendments are supported throughout the application as filed.

For example, claim 1 has been amended to recite the phrase "calculation based on results of measurements performed on a mixture of a blood sample and a liquid reagent." This amendment is supported at least at page 13, lines 22-27, of the specification. In addition, the phrase "precise and accurate" has been replaced with "precise correspondence of the volumes of the components which are mixed in step a) with the volumes according to the test protocol" and "in b)" has been deleted. These amendments clarify that the hematocrit value referred to here is not that measured in step b), but the "known hematocrit" as determined on the same blood (i.e. blood of the same origin as the blood mixed with the liquid reagent in step a)) by some established method of measuring hematocrit (i.e., the "true" hematocrit of the blood in question (see, e.g., page 15, line 22 in the description)). Basis for these amendments can be found at least at page 15, line 10, through page 16, line 8, of the specification.

The term "intended" in claims 2 and 3 has been amended to "according to the test protocol," support for which can be found at least at page 15, lines 30-32, of the specification.

In claim 7 the wording "wherein said method" has been amended to "wherein said determination of analyte concentration," support for which can be found at least at page 19, line 9, and page 33, lines 24-25, of the specification.

Claim 16 has been amended so that the claimed device is directed to the method according to amended claim 1. Most of the amendments have the same wording as in new claim 1 and are thus supported at the same location. However, support for the phrase "the

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same mixture of blood and liquid reagent" in step e) can be found at least at page 23, lines 33-34, of the specification.

Claim 17 has been amended as to better clarify the meaning of the claim and has been linked to claim 16. Support for the last part of claim 17 can be found at least at page 28, lines 26-29, of the description.

The amendments to the claims, including cancellation of claims, have been made without prejudice or disclaimer to any subject matter canceled or recited herein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter. No new matter has been added, and entry of the foregoing amendments of the above-identified application is respectfully requested.

II. Response to Restriction Requirement

The Examiner has required that the present application be restricted, under 35 U.S.C. §§ 121 and 372, to one of the following two groups of claims:

Group I: claims 1-15, drawn to a method to determine an analyte concentration of an anticoagulated plasma,

Group II: claims 16 and 17, drawn to a measurement and determination device for performing measurements on blood.

Applicants hereby elect the invention defined by the Examiner as Group I, Claims 1-15, drawn to a method to determine an analyte concentration of an anticoagulated plasma.

Applicants respectfully submit that all of the claims as amended are so linked that they form a single general inventive concept and should thus be examined together in the present application. Accordingly, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement.

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CONCLUSION

This response is made without prejudice or disclaimer to any non-elected subject matter, and Applicants reserve the right to file one or more continuation and/or divisional applications directed to any non-elected subject matter.

From the foregoing, further and favorite action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited. In the event that there are any questions concerning this response, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,
BACON & THOMAS, PLLC

By: 
Lisa E. Stahl, Ph.D.
Registration No. 56,704

625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080
LES/sld

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